

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare Department – Appeal Petition filed by Sri Bonku Dilip Kumar, S/o Bhushanam, R/o Rampachodavaram, East Godavari District, against the proceedings No. R.Dis.C5(M) 1499/2005, dated 02.07.2013 of the District Collector, East Godavari, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes)- Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition allowed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.Ms.No.19

Dated: 08.02.2019

Read the following:

1. Proceedings of the District Collector, East Godavari, R.Dis C5(M)/1499/2005, dt.02.07.2013.
2. Appeal Petition filed by Sri Bonku Dilip Kumar, S/o Bhushanam, R/o Rampachodavaram, East Godavari District, before M(TW), No.258/M(TW)/2013, dt.26.09.2013.
3. Govt. Memo No.10956/CV.2/2013, dated 27.09.2013.
4. From the District Collector, East Godavari, Lr.No.Ref.C5/M/1499/2005, dated 16.07.2018.
5. Govt. Memo No.10956/CV.2/2013, dated 02.11.2018.

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ORDER:

In the reference 1st read above, the District Collector, East Godavari has issued orders cancelling ST-Valmiki caste certificate obtained from the then Tahsildar, Rampachodavaram in the year 1984 and other certificates if any by Sri Bonku Dilip Kumar, S/o Bhushanam and his family members.

2. In the reference 2nd read above, Sri Bonku Dilip Kumar, S/o Bhushanam, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, East Godavari. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, East Godavari and called for the parawise remarks and connected records from the District Collector, East Godavari in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, East Godavari has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Bonku Dilip Kumar, S/o Bhushanam.

4. The said Appeal Petition has been posted for hearing on 03.11.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant/ the Counsel for the appellant were attended for hearing scheduled on 03.11.2018 and argued the case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant/ the parawise remarks submitted by the District Collector, East Godavari and proceedings of the District Collector, East Godavari, dated 02.07.2013, the Appellate Authority is observed that :

- I. The appellant in grounds has stated that the East Godavari District Valmiki Society has issued letter dated 30.09.2011 to the DLSC that the petitioner belongs to Valmiki Community and that their ancestors hold agency lands and that even according to the birth and death registrar of 1950 the petitioners are Valmikis for several other reasons. Further he has stated that the District Collector has not denied the residence of the fore fathers of the appellant as Jaddangi Village Rajavommangi Mandal, which is an agency area and failed to consider the death extract pertaining to the year 1937 related to Bonku Venkanna i.e. the grandfather of the appellant and for the reasons best known to him disputes that the said document without any basis and the respondent if disputed the death extract pertaining to the year 1937 ought to have called for a report from the concerned authority and should have sent the same for expert opinion. The mere opinion of the respondent cannot be a ground to disbelieve the document. The respondents have failed to consider the birth and death entries pertaining to 1945 of Bonku Subba Rao were also recorded as Valmiki.

[Conte..on P.2]

- II. Further he has stated that the District Collector has not made correct interpretation of the guide lines issued in circular Memo No.36456/CV-2/96-3, dated 12-06-1998 of the Social Welfare(CV) Department. He has failed to appreciate that as per SC and ST Amendment Order 1976, Valmiki schedule Tribe exists in Agency Tracts of East Godavari District but not in any plain area. The finding of the Collector on record of caste in the birth and death registers as MALA, Adi-Andhra and Christian does not preclude the rights of the appellant in claiming Valmiki status in view of the Memo No.36456/CV2/96-3, Dt. 12-06-1998 of the Social Welfare(CV) Department as per the Government Memo, the certificate seeker and his family should establish that they are permanent residences or agency tracts of East Godavari Districts on the date of first notification of Valmiki Tribe in the list of Scheduled Tribes (25-09-1956), and the said entries clearly disclose that the family having permanent residence in Agency Tracts and hold agency lands. The Deputy Director, Tribal Welfare wrongly arrived to the conclusion and opined the caste of the appellant as MALA stating that the certificate seeker should establish his/her community on the basis of documentary evidence relating to the period prior to 1956, that the candidate produced evidence after 1956, that in LTRP orders the caste mentioned basing on the deposition of the parties and the candidate and his brothers and sisters have married SC people only. The respondents have failed to consider the Caste Certificate of the Bonku families/ individuals/relatives holding the said surname wherein many of the Caste Certificates were issued Subsequent to the orders of the Hon'ble High Court and in accordance to the memo/circular issued thereafter, wherein the office of the District Authorities have held that Bonku Surname individuals belong to Valmiki (ST). The District Collector, East Godavari has not considered the family background and the birth and death registers and the habitation of the appellants and held that, the appellant belongs to Valmiki Tribe.
- III. The District Level Scrutiny Committee has observed that the Appellant is a native of Zaddangi Village of Rajavommangi Mandal. His mother Bonku Sarojinidevi is from Addateegala Mandal whose father was one Sri Bunga Venkata Ratnam. The appellants father Sri Bonku Bhushanam has two wives, gave birth of two sons to first wife and (9) children to second wife. The Appellants father Bonku Bhushanam belongs to Mala (Christian) and his children had marriage alliances with Mala (SC) people. As verified from the genealogical tree, school records, marriage alliances and records of Birth & Deaths of the ancestors of the Appellant belong to Mala Community only. As per the circular instruction of the Collector earlier, two family members of Bonku Bhushanam were issued permanent caste certificates as Valmiki ST based on a Settlement patta prior to 1950 concealing the fact of belong to Mala Community. Later the said circular instructions were quashed by the Hon'ble High Court. The Appellants brothers and sister got married with only SC people. Though ample opportunity was given to the appellant, he could not able to prove his caste status through proper documentary evidences. The birth & death extract of Bonku Venkanna was already held that it is tampered one. The other caste certificates obtained as per School records, which were recorded based on the deposition of the people at the time of admission only and the same cannot be considered. Based on the findings of the DLSC the District Collector has cancelled the appellant's caste certificate.
- IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.
- V. The Appellate Authority has observed that during the course of arguments, the appellant submitted his arguments have stated that his father and forefathers belongs to ST Valmiki community as such he is also same community and in the school certificates of him clearly shows that he is Valmiki as such on that scores he is able to prove his cast is ST Valmiki. On verification of the arguments and the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that the documents pertaining to birth and death extracts of the paternal side of the appellant which are prior to Indian independence noted the caste as Valmiki in the entries. Under the circumstances as they are admissible in evidence the same can be relied upon and the appellant able to discharge his burden of his social status as ST. In the light of the above the appellant able to prove his claim that his caste is Valmiki as such he comes under ST Category. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority failed to observe the finding of the concerned above.

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6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), hereby allowed the Appeal Petition filed by Sri Bonku Dilip Kumar, S/o Bhushanam, by upholding his Scheduled Tribe(Valmiki) community claim and ST-Valmiki caste certificate issued by the then Tahsildar, Rampachodavaram and the Proceedings of the District Collector, East Godavari issued in the reference 1st read above are set- aside.

7. The District Collector, East Godavari is directed to take necessary consequential action in the matter.

8. The records (containing R.Dis C5(M)/1499/2005, pages NF: 1-14 & CF: 1-498) received from the District Collector, East Godavari through the reference 4th read above, are returned herewith in original to the District Collector, East Godavari and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**R. P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT**

To

The District Collector, East Godavari .
(with original records) (BY RPAD)

Sri Bonku Dilip Kumar, S/o Bhushanam,
R/o Rampachodavaram, East Godavari District.

Sri G. Jaya Prakash Babu, Advocate,
H.No.10-5-119,
St.No.19, Tukaramgate, Near Point,
East Maredpally, Sec'bad-17.

Copy to:

The Director, TCR& TI, A.P., Amaravati.

The PS to M(TWE& HFW).

The PS to Principal Secretary(TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER